

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07-CR-00097-RJC

USA

v.

THOMAS DONNELL SIFFORD

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ORDER

THIS MATTER is before the Court upon motions of the defendant for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine triggered by the Fair Sentencing Act of 2010 (Doc. Nos. 52, 66), to which the government has not objected.

On August 7, 2007, the defendant pled guilty to possession with intent to distribute cocaine and at least five grams of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) (Count One), and possession of ammunition by a convicted felon, in violation of 18 U.S.C. § 922(g)(1) (Count Two). The advisory guideline range was 120 to 150 months based on an offense level of 27 and a criminal history category of V. (Doc. No. 31: Statement of Reasons at 1). The Court sentenced the defendant within the range to 132 months on Count One and 120 concurrent months on Count Two,¹ (Doc. No. 30: Judgment at 2), which was not disturbed on appeal. United States v. Sifford, 330 F. App'x 46 (4th Cir. May 15, 2009) (unpublished); Sifford v. United States, 129 S. Ct 2885 (2009) (unpublished).

¹ The firearm conviction was later vacated in light of United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). (Case No. 3:13-cv-541, Doc. No. 7).

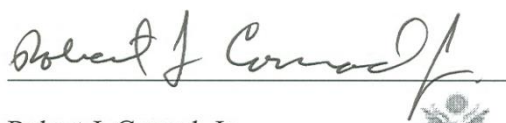
Under amendments to the guidelines, the offense level for possessing at least 41.11 grams of cocaine base and 59.38 grams of cocaine (marijuana equivalency of 158.68 kilograms) is 24. USSG Supp. to Appx. C., Amend. 750 (2011). However, the mandatory minimum triggered by the amount of cocaine base results in a range of 120 months, pursuant to USSG §5G1.1. (Doc. No. 65: Supplemental Presentence Report at 2). Consistent with 18 U.S.C. § 3582(c)(2), the Court has considered the factors set forth in 18 U.S.C. § 3553(a), as well as the defendant's post-sentence conduct and the public's safety. Based on these factors, the Court finds that a reduction of the defendant's sentence to within the current advisory guideline range would accomplish the goals of sentencing.

IT IS, THEREFORE, ORDERED that the defendant's motion is **GRANTED** and the defendant's sentence for Count One is reduced to 120 months.

IT IS FURTHER ORDERED that, if the defendant is released from imprisonment without a residential plan accepted by the United States Probation Office, the defendant shall submit to the local Residential Reentry Center for a period not to exceed 90 days, with work release, at the direction of the U.S. Probation Office, as a condition of supervised release. All other conditions remain unchanged.

The Clerk is directed to certify copies of this Order to the defendant, counsel for the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: December 18, 2014


Robert J. Conrad, Jr.
United States District Judge

